

## **ARTICLE 17**

### **PERSONNEL FILES**

#### **A. General.**

There shall be only one official personnel file maintained on each employee in the Representational Units covered by this Agreement. Under no circumstances shall an employee's medical file be contained in the employee's personnel file; however, records of personnel actions based upon medical information may be kept in personnel files.

#### **B. Access.**

Access to individual personnel files shall be restricted to authorized management personnel, the employee and/or a designated MSEA Representative when authorized in writing (through mail, e-mail or fax) by the employee. An employee shall have the right, upon request, to review his/her personnel file at reasonable intervals, generally not to exceed two (2) times in a contract year, and may be accompanied by a designated MSEA Representative if the employee so desires. An employee who requests in writing (through mail, e-mail or fax) one or more additional reviews shall state the purpose thereof. File review shall normally take place at the location of the personnel file and during the Employer's normal work hours. If a review during normal work hours would require an employee to take time off from work, the Employer will provide some other reasonable time or place for the review. As an alternative to rearranging the time or place for employee review, employees may designate, in writing (through mail, e-mail or fax) an MSEA Representative to conduct such review. Upon employee request, the Employer shall make and furnish a copy of documents, or parts of documents, to the employee or the designated MSEA Representative. The Employer may charge a reasonable fee for duplicate copies previously furnished to the employee or Union, when requests for such copies become excessive.

#### **C. Employee Disagreements.**

An employee may request the Employer to correct or remove information from the employee's personnel file with which the employee disagrees. Such request shall be in writing (through mail, e-mail or fax), shall specify with particularity that record, or part of a record, with which he/she disagrees, and how the employee proposes to correct the record. The Employer shall either correct or remove such disputed information or deny the employee request in writing. In the absence of an agreement between the Employer and the employee, the employee may file a grievance or submit a written statement to the Employer explaining the disagreement, which statement in combination with any other such written explanatory statement shall not exceed five (5) sheets of 8-1/2 inch by 11-inch paper. Such employee statement(s) shall remain in the personnel file as long as the original information, with which the statement reports disagreement, is a part of the file.

**D. Employee Notification.**

A copy of any disciplinary action or material related to employee performance which is placed in the personnel file shall be provided to the employee (the employee so noting receipt, or the supervisor noting employee refusal to acknowledge receipt) or sent by certified mail (return receipt requested) to the employee's last address appearing on the Employer's records.

**E. Non-Employment Related Information.**

Detrimental information not related to the employee's employment relationship shall not be placed in the employee's personnel file.

**F. Confidentiality of Records.**

This Article shall not be construed to expand or diminish a right of access to records as provided in Act 442 of the Public Act of 1976, or as otherwise provided by law.

The Employer will not release an employee's final disciplinary action record to other than the authorized representative(s) of the Employer or the designated MSEA Representative with the employee's written permission, unless the Employer furnishes the employee with written notice of such release on or before the day the information is released. Such notice may, at the Employer's discretion, be provided to the employee by first-class mail at the employee's home-of-record, or at the work location.

This provision shall not prohibit the Employer from releasing such information where:

1. The employee has waived the right to written notice as part of a written, signed employment application with another Employer; or
2. The disclosure is ordered in a legal action or arbitration to a party in that legal action or arbitration;
3. The information is requested by and provided to a government agency as a result of a claim or complaint by an employee with such government agency.

**G. Expunging Records.**

Upon employee request, records of disciplinary actions/interim service ratings shall be removed from an employee's file twenty-four (24) months following the date on which the action was taken or the rating issued, provided that no new disciplinary action/interim service rating has occurred during such twenty-four (24) month period. Written reprimands/formal counseling forms shall be removed from an employee's file after twelve (12) months of satisfactory performance during which the employee has not received less than a satisfactory service rating, been the subject of disciplinary action, or received further written reprimands/formal counseling for the same or similar reason(s). These provisions shall not prohibit the Employer from maintaining records of disciplinary action arising out of violations of prohibited practices as defined in the Civil Service Rules and Regulations. The provisions of this Section shall apply retroactively. Any record eligible to be expunged under this

Section shall not be used in any subsequent hearing concerning the employee. No disciplinary action maintained on an electronic Employee History Record, eligible for expungement, shall be admissible in any step of the grievance procedure.

For purposes of computing time for expunging records under this Section, time spent on medical leave of absence shall not be counted.

#### **H. Confidentiality of Medical Records.**

To insure strict confidentiality, medical reports and records made or obtained by the Employer relating to an employee shall not be contained in nor released in conjunction with the employee's personnel file. Only authorized representatives of the Employer, the employee, and MSEA Representatives authorized by the employee in writing, (and signed by the employee) shall possess or have access to such employee medical reports or records, including records prepared by a private physician, rehabilitation facility, or other resource for professional medical assistance.

This provision shall not prohibit the Employer from placing information in the employee's medical file which reflects Employer-initiated correspondence with a medical practitioner, or the employee, regarding diagnoses, prognoses, and fitness for employment, or absences from work associated therewith, nor from placing copies of records and reports containing conclusions by the Employer concerning the employee's fitness for duty based upon proper medical records and reports. This file may be reviewed by the employee and/or the employee's representative in the same fashion as the personnel file.

The Employer shall not be prohibited from furnishing or otherwise releasing medical records or reports made or obtained by the Employer where such release is specifically required to process a grievance which involves the use or interpretation of such reports or records by the Employer, to a legal action or arbitration, or to a complaint or claim filed with a government agency by an employee.